

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

DARRELL DEAN SHARP,

Plaintiff,

vs.

CCA, TOOLE COUNTY, and  
WARDEN FENDER,

Defendants.

CV-14-62-GF-BM

**ORDER ADOPTING  
FINDINGS AND  
RECOMMENDATIONS**

Plaintiff Darrell Dean Sharp (Sharp) is a prisoner at Crossroads Correctional Center (CCA) in Shelby, Montana. He filed a Complaint on August 28, 2014. Sharp alleges that he was assaulted by a correctional officer and another inmate at CCA. He claims that Defendants CCA, Toole County, and Warden Fender are liable under 42 U.S.C. § 1983 because they failed to protect him from the inmate, and they refused to bring criminal charges against the officer.

United States Magistrate Judge Keith Strong informed Sharp on November 12, 2014, that his Complaint was subject to dismissal because it failed to state a viable claim against any of the Defendants. Judge Strong described the deficiencies in the Complaint. He explained that Sharp had failed to assert a claim against CCA and Toole County because there was no allegation that CCA or Toole County violated his constitutional rights by application of an unconstitutional custom,

policy or practice. Judge Strong explained that Sharp had failed to allege a claim against Warden Fender because there was no allegation that Warden Fender's personal actions caused him injury, and there was no allegation that Warden Fender was subject to supervisory liability.

Judge Strong gave Sharp an opportunity to cure the pleading deficiencies by filing an Amended Complaint. The deadline for filing the Amended Complaint was set for December 8, 2014. The deadline was later extended, at Sharp's request, to January 9, 2015. No Amended Complaint was filed by Sharp.

United States Magistrate Judge John Johnston issued Findings and Recommendations in this matter on January 21, 2015. (Doc. 19). Judge Johnston recommended that the Complaint be dismissed for the reasons stated in Judge Strong's Order of November 12, 2014. (Doc. 19 at 2).

Sharp filed objections to Judge Johnston's Findings and Recommendations on February 6, 2015. (Doc. 20). Sharp also filed a Motion to Set a Scheduling Conference. (Doc. 21).

The Court reviews de novo Findings and Recommendations to which objections are made. 28 U.S.C. § 636(b)(1). The Court finds no error in Judge Johnston's Findings and Recommendations, and adopts them in full. The

Complaint fails to state a claim for relief for the reasons explained by Judge Strong and Judge Johnston. Dismissal of the Complaint is appropriate.

Accordingly, IT IS HEREBY ORDERED:

1. Plaintiff's Complaint (Doc. 2) is DISMISSED with prejudice.
2. Plaintiff's Motion to Set a Scheduling Conference (Doc. 21) is DENIED as moot.
3. The filing of this action counts as one strike for failure to state a claim. 28 U.S.C. § 1915(g).
4. Any appeal of this decision would not be taken in good faith as Plaintiff's claims are frivolous.
5. The Clerk is directed to enter judgment accordingly.

DATED this 20th day of February, 2015.



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Brian Morris  
United States District Court Judge